IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Crl.Rev.Pet.No. 854 of 2000(B)

CRL.A.85/1994 OF SESSIONS COURT, MANJERI,
CC.332/1993 OF JUDICIAL FIRST CLASS MAGISTRATE (NO.1), PERINTALMANNA.

.....

REVISION PETITIONER/APPELLANT/ACCUSED:

PATHARI HAMZA, S/O. HYDRU,
PERINTHALMANNA AMSOM,
KAKOOTH, MALAPPURAM DIST.

BY ADV. SRI.K.M.SATHYANATHA MENON.

RESPONDENTS/COMPLAINANTS:

----

1. **THE SUB INSPECTOR OF POLICE,**
   PERINTHALMANNA.

2. **STATE OF KERALA, REP. BY THE**
   PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. AMJAD ALI.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/09/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

prv.

ORDER ON CRL.M.P. NO. 4534/2000 IN CRL.R.P. NO. 854/2000-B

DISMISSED

12/09/2007. **SD/- K.R.UDAYABHANU, JUDGE.**

//TRUE COPY//

prv.

K.R.UDAYABHANU, J

Crl.R.P.No.854 of 2000

Dated this the 12th day of September, 2007

O R D E R

The revision petitioner stands convicted and sentenced to undergo simple imprisonment for four months and to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for one month with respect to the offence under Section 323 IPC and also to pay a fine of Rs.500/- and in default, to undergo simple imprisonment for 7 days with respect to the offence under Section 341 IPC.

2. The prosecution case is that on 31.5.1993 at about 7 p.m., at Thali temple junction, Angadippuram while PW1 was waiting at the bus stop to go to Perinthalmanna, the accused who was going in an autorickshaw, stopped the autorickshaw and restrained him by catching hold of his shirt collar and beat him on his face two to three times.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 10 and Exts. P1 to P4.

4. PW1, the defacto complainant has testified on the

same day and he submitted the written complaint to Dy.S.P., Perinthalmanna. According to him, the accused is involved in a number of cases including a rape case and the same was reported by him in the newspaper. He suspects that it is on account of the above grudge that the accused beat him. On the same day he has gone to PW6, civil surgeon, who had issued Ext. P3 wound certificate. The alleged cause mentioned in Ext. P3 tallies with the version of PW1. PW6, the doctor, has proved Ext. P3. PWs' 4 and 5 cited as occurrence witnesses have testified that they have witnessed that the above incident and stated that they are not in a position to identify the accused as the incident took place just within no time. I find that the the evidence of PW1 stands unimpeached. No contradictions or omissions with respect to his previous statement has been brought out. In the circumstances, I find no reason to deviate from the concurrent findings of the court below. The conviction is confirmed.

5. Counsel for the revision petitioner has pleaded for leniency pointing out that more than 14 years have elapsed since the date of the incident and that since then the accused was facing the criminal proceedings. The counsel has pleaded for

avoiding imprisonment.

6. In the circumstances, the sentence imposed for the offence under Section 323 IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.15,000/- to PW1 and in default, to undergo simple imprisonment for six months. No separate sentence is awarded for the rest of the offence under Section 341 IPC. The revision petitioner is granted three months' time to remit the amount of compensation. He shall appear before the Judicial First Class Magistrate Court-I, Perinthalmanna on 12.12.2007 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl